Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
	)	
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing an Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109

REPLY COMMENTS OF ROCK HILL TELEPHONE COMPANY d/b/a COMPORIUM, LANCASTER TELEPHONE COMPANY d/b/a COMPORIUM, FORT MILL TELEPHONE COMPANY d/b/a COMPORIUM, PBT TELECOM, INC. d/b/a COMPORIUM AND CITIZENS TELEPHONE COMPANY d/b/a COMPORIUM (COMPORIUM)

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EXECUTIVE SUMMARY

In these reply comments, the Comporium Companies join with the large chorus of commenters in demonstrating that receipt of universal service fund ("USF") support by rate-of-return regulated rural local exchange carriers ("RLECs") has brought high-quality telecom and robust broadband services to rural America. The record in this proceeding clearly shows that the Comporium Companies and other RLECs have led the way in utilizing USF in deploying these services in rural and high-cost areas of the nation in an efficient manner.

To ensure that the Comporium Companies and other RLECs have the ability to continue providing and expanding these services, it is essential that USF directly support broadband in a manner that does not abandon the key elements that have led to the success of USF. As explained herein, this critical goal cannot be accomplished by the adoption of the near-term USF proposals in the NPRM. Record evidence shows that adoption of these proposals would cause many RLECs to significantly curtail if not outright eliminate vital services to their rural subscribers, dramatically reduce staff which would have a ripple effect on the economy in rural communities and even cause some RLECs to default on loan commitments. The record also shows that these proposals would prevent RLECs from recovering investments that they have already made in their networks and would fail to provide a sufficient and sustainable cost recovery mechanism as existing mechanisms based on rate-of-return regulation have done.

Given this clear and convincing evidence, the Commission would act in an arbitrary and capricious manner and in a manner that would be contrary to the public interest if it were to adopt USF reform proposals such as those set forth in the NPRM.

Accordingly, the Comporium Companies urge the Commission to reject the proposals in the NPRM and consider alternative proposals such as the plans set forth by the Rural Associations and the Rural Broadband Alliance which would accomplish the National Broadband Plan's goal of providing broadband to all America in a way that builds upon the success of the existing USF mechanisms.

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Rock Hill Telephone Company d/b/a Comporium ("Rock Hill"), Lancaster Telephone Company d/b/a Comporium ("Lancaster"), Fort Mill Telephone Company d/b/a Comporium ("Fort Mill"), PBT Telecom, Inc. d/b/a Comporium ("PBT") and Citizens Telephone Company d/b/a Comporium ("Citizens") (collectively the "Comporium Companies") hereby reply to comments submitted in response to the invitation of the Federal Communications Commission ("FCC" or "Commission") to comment on proposals to reform the existing universal service fund ("USF") and intercarrier compensation ("ICC") regimes in the context of the Commission's National Broadband Plan.[1]

The Comporium Companies are rural local exchange carriers ("RLECs") that serve approximately 117,000 access lines in Transylvania County, North Carolina, portions of York, Lancaster, Chester, Kershaw, and the Midlands of South Carolina which include the counties of Aiken, Calhoun, Edgefield, Lexington, Orangeburg, and Saluda. The Comporium Companies are rural telephone companies as defined in 47 U.S.C. § 153(37). The Comporium Companies and their affiliates provide a wide array of services, including high-speed Internet, wireless service, long distance, and video services to their rural consumers in addition to traditional telephone service.

In these reply comments, the Comporium Companies join with the large chorus of commenters in demonstrating that receipt of USF by rate-of-return regulated RLECs has brought high-quality telecom and robust broadband services to rural America. To ensure that the Comporium Companies and other RLECs have the ability to continue providing and expanding these services, it is essential that USF directly support broadband in a manner that does not abandon the key elements that have led to the success of USF. As explained herein, this critical goal cannot be accomplished by the adoption of the near-term USF proposals in the NPRM. Record evidence shows that adoption of these proposals would cause many RLECs to significantly curtail if not outright eliminate vital services to their rural subscribers, dramatically reduce staff which would have a ripple

[1] *Connect America Fund*, WC Docket No. 10-90, *A National Broadband Plan for Our Future*, GN Docket No. 09-51, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135, *High-Cost Universal Service Support*, WC Docket No. 05-337, *Developing an Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Lifeline and Link-Up*, WC Docket No. 03-109, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, FCC 11-13 (rel. Feb. 9, 2011) ("NPRM").

effect on the economy in rural communities and even cause some RLECs to default on loan commitments.[2] Record evidence also shows that viable alternatives exist such as those submitted by the Rural Associations and the Rural Broadband Alliance.[3] Accordingly, the Comporium Companies urge the FCC to reject the proposals in the NPRM and instead adopt USF reforms that would build upon the successes of the existing USF mechanisms.

I. Through the Existing Universal Service Program, RLECs Have Brought Many Benefits to Rural America

A. USF Has Been Successful in Achieving Congressional Goals

A host of commenters provided irrefutable evidence that the existing USF programs have been successful. As observed by the ITTA, "[b]ecause independent telephone companies have made good use of the funding from these programs, Americans today enjoy near universal access to voice services, and most rural areas have access to broadband services."[4] The Rural Broadband Alliance notes, "as a result of the USF, rural telephone companies have been able to deploy networks that connect rural hospitals, remote schools, emergency service coordinators and providers, and the myriad other basic linkages that enhance the daily lives of rural Americans."[5]

The plethora of evidence of the success of USF comes not only from those within the RLEC industry but from many other sources as well. For example, CoBank states,

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[2] *See, e.g.* Comments of Hill Country Telephone Cooperative, Inc. ("Hill Country"); Comments of the Missouri Small Telephone Group ("MoSTCG"); Comments of the Small Company Committee of the Louisiana Telecommunications Association.
[3] *See* Comments of the National Exchange Carrier Association, Inc., National Telecommunications Cooperative Association, Organization for the Promotion and Advancement of Small Telecommunications Companies and Western Alliance (collectively the "Rural Associations"); Comments of the Rural Broadband Alliance.
[4] *See* Comments of the Independent Telephone & Telecommunications Alliance ("ITTA") at iv.
[5] Comments of the Rural Broadband Alliance at 4.

"Americans have prospered from the principle that universally available and affordable telephone service benefits rural, urban and suburban residents . . . ."[6] The Utah Public Service Commission provides additional testimony when it declares,

> Utah's rural telecommunications companies have built advanced infrastructure serving the vast majority of customers in their collective territories. Despite the wide dispersion of customers in Utah's rural areas, customers generally enjoy excellent telephone and broadband service at reasonable rates. In short, rural telecommunications companies and the regulatory community have been generally successful. State Universal Service Funds, federal support, and generally good management have enabled this.[7]

B. USF Has Enabled RLECs to Spur Economic Development in Rural America

As observed by the Rural Broadband Alliance, "Rural telephone companies are the engines that drive rural economic development and opportunity in rural America"[8] This is certainly the case for the Comporium Companies. The Comporium Companies provide high-quality service at reasonable rates in their rural service territories - areas that the Bell Operating Companies chose not to serve. Further, the Comporium Companies serve even the least dense, highest-cost areas within their service territories in fulfillment of their carrier-of-last-resort obligations. In urging the FCC to abandon its quest to eliminate rate-of-return regulation, CoBank explains that Bell Operating Companies and other carriers under incentive regulation would not provide such high quality services at reasonable rates in these areas because "incentive regulation rewards

[6] Comments of CoBank, ACB ("CoBank") at 3.
[7] Comments of the Utah Public Service Commission and Utah Division of Public Utilities ("Utah Public Service Commission") at 1-2; *see also* Comments of the Regulatory Commission of Alaska at 16 ("In general, Alaska carriers serving very high cost areas have provided reliable service at reasonable rates using the USF support mechanisms available to them.")
[8] Comments of the Rural Broadband Alliance at 2.

profit taking, it does not reward serving high-cost areas."[9] The Comporium Companies not only have chosen to serve their vast rural service territories but have heavily invested in building a state-of-the-art digital network which spurs economic growth in the communities they serve. To build such a network in these areas is costly. To fulfill their carrier-of-last-resort obligations in the South Carolina Piedmont, the Comporium Companies confront hilly terrain while the sandy composition of the areas located in the Midlands of South Carolina are very prone to lightning strikes which cause damage due to grounding problems in dry, sandy soils from April to August each year which call to task funding for maintenance of existing facilities. As previously explained by the Comporium Companies,

> In North Carolina, our carrier-of-last-resort obligations extend over rocky, mountainous terrain, where heavy rainfall may mean flash-flooding or rock slides. The significant amount of minerals in the soil also increases the potential for lighting strikes.[10]

Absent support from USF and ICC, it would be impossible to construct and maintain a reliable communications network in these sparsely populated high-cost areas and be able to charge reasonable rates to subscribers. Accordingly, the Comporium Companies rely heavily on these sources of support. For the Comporium Companies, the total USF/ICC is over $51 million and represents 46 percent of Comporium's regulated revenue. USF/ICC also represents approximately 177 percent of Comporium's Net Operating Income.[11]

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[9] Comments of CoBank at 6.

[10] Reply Comments of the Comporium Companies submitted in WC Docket Nos. 10-90 & 05-337 and GN Docket No. 09-51 on August 11, 2010 ("Reply Comments of Comporium") at 3-4.

[11] This amount includes federal high-cost universal service support, total interstate and intrastate intercarrier compensation revenues and support from the South Carolina Universal Service Fund and Interim LEC Fund.

The Comporium Companies have used this support to drive economic development in the rural communities that they serve. For example, the Comporium Companies provide networks in which broadband and voice are provided over the same facilities benefiting residential and small and large businesses, provide "the network" which support wireless and other providers, provide employment of those in the rural communities they serve and otherwise support the economy though deployment of fiber networks to schools, libraries, hospitals, public safety and other anchor institutions.

II. USF Must Directly Support Broadband in a Way that Remains True to the Goals Established by Congress and that Ensures Continued Promotion of Economic Development in Rural America

A. Comporium Agrees with Commenters that USF Must Directly Support Broadband

Comporium agrees with the Rural Associations that "[t]here is an unmistakable need to orient the USF toward more express support of broadband-capable networks and affordable end-user rates, and there is without question a need to modify certain of the existing mechanisms to enhance their performance and improve sustainability."[12] As observed by the Rural Broadband Alliance, "[t]he telecommunications industry and the communications markets have undeniably changed in the past decade, and the Commission's review of compensation mechanisms, including universal service funding and intercarrier compensation arrangements, is both appropriate and necessary."[13]

B. Reform Must Not Jettison Essential Elements that Have Led to USF's Success

[12] Comments of the Rural Associations at 2.

[13] Comments of the Rural Broadband Alliance at 3. *See* Comments of CoBank at 3 ("CoBank also supports the modernization of the Universal Service Fund (USF) and the intercarrier compensation (ICC) system to support universal broadband.")

1. Rate-of-Return Regulation Must Be Maintained

The Comporium Companies have previously demonstrated that rate-of-return regulation "has been the core mechanism behind the extremely high level of broadband availability among rural carriers."[14] Further evidence of this fact was provided by commenters. For example, JSI noted that "[p]rivate sector investment requires a stable and robust environment in which to invest" and that "[i]n order to provide a stable environment, regulators have used rate-of-return regulation as an effective vehicle to promote private sector investment in rural areas of the nation."[15] This is further expounded upon by the private sector investment firm, CoBank which stated,

> If the Commission eliminates RoR regulation, CoBank would view that as a serious threat to an RLEC's ability to continue to obtain access to debt capital. The vast majority of RLECs are too small and operate in areas where subscriber density is too low for price-cap or other incentive regulation to sufficiently recover costs and provide for a reasonable return on invested capital.[16]

2. Corporate Operations Expense Recovery Should Not Be Eliminated

In the NPRM, the FCC proposes to eliminate the eligibility for recovery of corporate operations expenses through High-Cost Loop Support ("HCLS"), Local Switching Support ("LSS") and Interstate Common Line Support ("ICLS") "to focus finite universal service funds more directly on investments in network build-out, maintenance and upgrades."[17] Commenters demonstrate that taking such drastic

[14] Reply Comments of Comporium at ii.
[15] Comments of John Staurulakis, Inc. ("JSI") at 4.
[16] Comments of CoBank at 6.
[17] NPRM at para 198.

measures would devastate most RLECs.[18] This would certainly be the case for most of the Comporium Companies. For example, based on 2009 data, if the FCC were to eliminate the recovery of corporate operations expenses, Rock Hill would have a 37.81 percent decrease in ICLS,[19] Lancaster would have a 14.41 percent decrease in LSS and a 26.18 percent decrease in ICLS,[20] and PBT would have a 6.13 percent decrease in HCLS, a 14.03 percent decrease in LSS and a 15.41 percent decrease in ICLS.

Further, as demonstrated by JSI, corporate operations expenses are vital expenses which are "central to the core mission of rural ILECs."[21] After citing FCC rules, JSI observes that these rules allow for expenses to be recovered that are incurred by rural ILECs for general and administrative operations, and the HCLS "imposes a cap on the amount of corporate operations expense that is eligible for federal support."[22] The Comporium Companies agree with the Rural Associations that a more reasonable alternative would be "to apply the same corporate operations expense limitation currently imposed on HCLS payments to ICLS and LSS as well."[23] The Comporium Companies also urge the Commission to reject its proposal to limit the amount of corporate operations expense for recovery at the holding company level. The Commission reasons that such action may be necessary based upon its unsupported assumption that holding companies may "arbitrarily allocate overhead to avoid the corporate operations expense

[18] *See, e.g.,* Comments of JSI at 6-8 (citing data provided in an *ex parte* meeting showing the impact of the proposals in the NPRM on 139 RLECs; Comments of the MoSTCG at 1 (declaring that certain proposals in the NPRM would "negatively impact the MoSTCG companies' ability to continue providing high quality broadband and telecommunications service" and that "a number of the NPRM's proposals may threaten the small companies' financial viability.")

[19] The elimination of the corporate operations expense recovery would also impact LSS that Rock Hill began receiving in 2010. Rock Hill does not receive HCLS so there would not be an impact on HCLS..

[20] There would be no impact for Lancaster on HCLS because Lancaster does not receive HCLS.

[21] Comments of JSI at 9-11.

[22] *Id.*

[23] Comments of Rural Associations at 11; Comments of JSI at 11.

limitations for HCLS" where the holding company has commonly-owned study areas."[24] The Comporium Companies do not engage in such "potential gamesmanship"[25] in the allocation of such expenses among the commonly-owned study areas and any such "gamesmanship" that the Commission is aware of can be addressed on a case-by-case basis.

3. LSS Must Not Be Eliminated

In its NPRM, the FCC asserts that LSS should be eliminated. This action would also be detrimental to at least three of the Comporium Companies that currently receive LSS: Rock Hill which receives approximately $862,000 in LSS annually, Lancaster which receives approximately $212,000 annually and Citizens which receives approximately $239,000 annually.

The FCC reasons that elimination is necessary because "LSS in its current form may not appropriately target funding to high-cost areas, nor does it target funding to areas that are unserved with broadband."[26] The FCC also seeks comment on whether it should "eliminate LSS more quickly, i.e., immediately in 2012, for companies that have more than a specified number of lines, such as 50,000, at the holding company level?"[27] There is no basis for this reasoning. As JSI observes, "ILEC LSS has been decreasing over time as carriers have been able to realize cost savings when migrating to new switch platforms and as older plant has depreciated value" and that "[a]bsent the LSS program, rural ILECs will have to increase their local switching interstate access rate to recover these

[24] NPRM at para. 198.
[25] *Id.*
[26] NPRM at para. 190.
[27] *Id.* The FCC also seeks comment on merging LSS with HCLS because "there would no longer be an advantage to keeping the two study areas separate to maximize LSS receipts." *Id.* at para. 193.

switching costs" which would "cause access rates to increase at a time when the proposal in the NPRM is to reduce these same rates."[28]

4. SNA Must Not Be Eliminated

In its NPRM, the FCC proposes to eliminate safety net additive ("SNA") support. This would be detrimental to Fort Mill which just qualified for SNA and is scheduled to receive approximately $553,000 in SNA per year for the next five years and to PBT which is scheduled to receive approximately $681,264 annually from 2011 through 2014, and then $457,320 in 2015.

The Commission proposes to eliminate this support mechanism because some RLECs are not qualifying for SNA support as a result of significant increases in investment but instead because of a loss of access lines. A better alternative to this "throwing the baby out with the bathwater" approach exists. As JSI explains "instead of eliminating the program, the Commission should simply remove the per-line requirement . . . By making this change, a carrier would be eligible for SNA if its study area telecommunications plant in service ("TPIS") increases by at least 14 percent."[29]

C. Reforms Must Be Conducted in Such a Way as to Ensure Economic Growth in Rural Areas and Avoid Failure of Loan Commitments

Any reforms that are adopted must ensure that RLECs are able to recover the investments they have already made. As the Comporium Companies have previously stated, "[r]ural carriers have invested millions of dollars bringing broadband to their customers. The elimination of current cost support mechanisms without ensuring the recovery of broadband investments already made creates a significant degree of

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[28] Comments of JSI at 11-13.
[29] *Id.* at 13.

uncertainty for rural carriers."[30] This fact was expounded upon by commenters. For example, CoBank urged the Commission to understand,

> that unless there is a sufficient and sustainable cost recovery mechanism, no financing method (e.g. loan, loan guarantee, revolving loan, or a one-time grant) will sustain a rural broadband network in the long term. The broadband network is a dynamic infrastructure, it is not static, and needs ongoing upgrades and maintenance. While the existing cost recovery mechanisms need revision to support broadband, do not discount the success of these tried and true mechanisms that have enabled many of our rural communications customers to successfully deploy broadband to rural areas via a variety of technologies and business plans.[31]

III. The Commission Has Alternatives

The Rural Associations and the Rural Broadband Alliance have submitted proposals that seek to address the concerns raised in the NPRM but in a way that also maintains the elements that have led to the success of USF. The Rural Associations provide "more measured and reasonable alternative approaches" to USF reform than the FCC's proposals.[32] The Rural Broadband Alliance provides a plan that would "neutralize the growing financial uncertainty among rural providers and the financial markets that is impacting both infrastructure investment and job creation, and may lead to rural community job loss, and to achieve the NPRM's policy goals."[33] The Comporium Companies believe that both plans are worthy of the Commission's consideration.

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[30] Reply Comments of Comporium at 2.
[31] Comments of CoBank at 4; *see* Comments of Hill Country at 8-12 (demonstrating that the impacts of the NPRM proposals on Hill Country would cause it to fail its loan commitment on its existing loan for the term of the loan and that given this fact, the company is currently reconsidering accepting its Rural Utilities Service Broadband Initiative Program grant/loan that it received).
[32] Comments of the Rural Associations at 2.
[33] Comments of the Rural Broadband Alliance at 7.

IV. Conclusion

The record in this proceeding clearly shows that Comporium Companies and other RLECs have led the way in utilizing USF in deploying voice and robust broadband services in rural and high-cost areas of the nation in an efficient manner. Given this clear and convincing evidence, the Commission would act in an arbitrary and capricious manner and in a manner that would be contrary to the public interest if it were to adopt USF reform proposals such as those set forth in the NPRM. As demonstrated herein, these proposals would prevent RLECs from recovering investments that they have already made in their networks and would fail to provide a sufficient and sustainable cost recovery mechanism as existing mechanisms based on rate-of-return regulation have done. Accordingly, the Comporium Companies urge the Commission to reject the proposals in the NPRM and consider alternative proposals such as the plans set forth by the Rural Associations and the Rural Broadband Alliance which would accomplish the National Broadband Plan's goal of providing broadband to all America in a way that builds upon the success of the existing USF mechanisms.

Respectfully submitted,

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